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4 **UNITED STATES DISTRICT COURT**  
5 **DISTRICT OF NEVADA**

6 COREY WAYNE BOOTH,

7 Plaintiff,

8 v.

9 WASHOE COUNTY COMMISSIONERS,  
10 *et al.*,

11 Defendants.

Case No.: 3:23-cv-00311-ART-CSD

**ORDER**

Re: ECF No. 15

12 Before the court is Plaintiff's Motion for Appointment of Counsel. (ECF No. 15.) Plaintiff  
13 states that he is unable to adequately present his claims without the assistance of counsel because  
14 he is "attending intensive inpatient therapy, church, AA, and NA." (*Id.* at 2.)

15 While any *pro se* inmate such as Mr. Booth would likely benefit from services of counsel,  
16 that is not the standard this court must employ in determining whether counsel should be appointed.  
17 *Wood v. Housewright*, 900 F.2d 1332, 1335-1336 (9th Cir. 1990).

18 A litigant in a civil rights action does not have a Sixth Amendment right to appointed  
19 counsel. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). The United States Supreme  
20 Court has generally stated that although Congress provided relief for violation of one's civil rights  
21 under 42 U.S.C. § 1983, the right to access to the courts is only a right to bring complaints to  
22 federal court and not a right to discover such claims or even to litigate them effectively once filed  
23 with a court. *Lewis v. Casey*, 518 U.S. 343, 354-355 (1996).

1 In very limited circumstances, federal courts are empowered to request an attorney to  
2 represent an indigent civil litigant. The circumstances in which a court will grant such a request,  
3 however, are exceedingly rare, and the court will grant the request under only extraordinary  
4 circumstances. *United States v. 30.64 Acres of Land*, 795 F.2d 796, 799-800 (9th Cir. 1986);  
5 *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986).

6 A finding of such exceptional or extraordinary circumstances requires that the court  
7 evaluate both the likelihood of Plaintiff's success on the merits and the *pro se* litigant's ability to  
8 articulate his claims in light of the complexity of the legal issues involved. Neither factor is  
9 controlling; both must be viewed together in making the finding. *Terrell v. Brewer*, 935 F.2d 1015,  
10 1017 (9th Cir. 1991), *citing Wilborn, supra*, 789 F.2d at 1331. Thus far, Plaintiff has been able to  
11 successfully articulate his claims.

12 In the matter of a case's complexity, the Ninth Circuit in *Wilborn* noted that:

13 If all that was required to establish successfully the  
14 complexity of the relevant issues was a demonstration of  
15 the need for development of further facts, practically all  
16 cases would involve complex legal issues. Thus,  
17 although *Wilborn* may have found it difficult to  
articulate his claims *pro se*, he has neither demonstrated  
a likelihood of success on the merits nor shown that the  
complexity of the issues involved was sufficient to  
require designation of counsel.

18 The Ninth Circuit therefore affirmed the District Court's exercise of discretion in denying  
19 the request for appointment of counsel because the Plaintiff failed to establish the case was  
20 complex as to facts or law. 789 F.2d at 1331.

21 The substantive claims involved in this action are not unduly complex. Plaintiff's  
22 Complaint was allowed to proceed on the Fourteenth Amendment claims relating to indifference  
23 to medical needs and unsafe jail conditions against Washoe County Commissioners and the City  
of Reno Municipality City Commissioners and the disability claim under the ADA and RA against

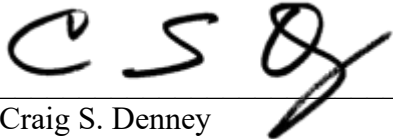
1 the Washoe County Commissioners, the City of Reno Municipality City Commissioners, and  
2 Darin Balaam. (ECF No. 5 at 14.) These claims are not so complex that counsel needs to be  
3 appointed to prosecute them.

4 Similarly, with respect to the *Terrell* factors, Plaintiff has failed to convince the court of  
5 the likelihood of success on the merits of his claims. Plaintiff has not provided any evidence, nor  
6 has he made any argument in his motion for appointment of counsel, showing that he is likely to  
7 prevail on the merits of his claim.

8 In the exercise of the court's discretion, it **DENIES** Plaintiff's Motion for Appointment of  
9 Counsel (ECF No. 15).

10 **IT IS SO ORDERED.**

11 Dated: May 22, 2024.

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13 Craig S. Denney  
14 United States Magistrate Judge  
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